

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

CORNELL BREWSTER,)	
)	
Petitioner,)	
)	
v.)	No. 4:08CV00700 ERW
)	
MISSOURI DEPARTMENT OF)	
CORRECTIONS, et al.,)	
)	
Respondents.)	

MEMORANDUM AND ORDER

This matter is before the Court on petitioner's petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254. The petition will be denied.

Petitioner states that he has been incarcerated for sixteen years. Petitioner alleges that he was given a presumptive release date in January 2008 by the Missouri Board of Probation and Parole (the "Board"). Petitioner claims that the Board took the presumptive release date away from him because of an unwarranted conduct violation. Petitioner says that he has been denied due process of law by the Board.

In the absence of exceptional circumstances, a state prisoner must exhaust currently available and adequate state remedies before invoking federal habeas corpus jurisdiction. Braden v. 30th Judicial Circuit Court of Kentucky, 410 U.S. 484 (1973). State remedies are ordinarily not considered exhausted if an individual may effectively

present his claim to the state courts by any currently available and adequate procedure. Missouri law provides at least three distinct avenues for challenging a decision of the Board: by bringing a declaratory action against the Board, by filing a state petition for habeas corpus, or by filing a petition for writ of mandamus. Wayne v. Missouri Bd. of Prob. and Parole, 83 F.3d 994, 996-97 (8th Cir. 1996). Petitioner has not availed himself of any of these potential remedies. Nor has petitioner alleged that circumstances exist that render these potential remedies ineffective to protect his rights. As a result, the petition must be dismissed for failure to exhaust available state remedies. See Rule 4 of the Rules Governing § 2254 Cases.

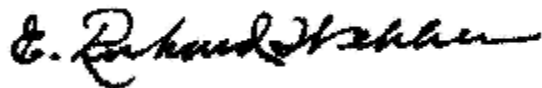
Accordingly,

IT IS HEREBY ORDERED that petitioner's petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254 is **DENIED** without prejudice.

IT IS FURTHER ORDERED that all pending motions are **DENIED** as moot.

An Order of Dismissal shall accompany this Memorandum and Order.

So Ordered this 10th Day of June, 2008.



E. RICHARD WEBBER
UNITED STATES DISTRICT JUDGE